

GARNISHMENT

CASE NUMBER _____

STATE OF ARKANSAS
Sebastian County
Greenwood Division

IN THE DISTRICT COURT OF SEBASTIAN COUNTY
GREENWOOD DIVISION

WRIT OF GARNISHMENT _____ SMALL CLAIMS _____ CIVIL DIVISION _____

PLAINTIFF: _____

DEFENDANT: _____

GARNISHEE: _____

THE STATE OF ARKANSAS To Any Person Authorized to Serve Process:
You are commanded to summon the above named garnishee and inform him of the following:

1. A Judgment had been obtained in our Court against the Plaintiff/Defendant, _____ for \$_____, together with interest and other legal costs accrued, and this Judgment remains unsatisfied. The Plaintiff/Defendant alleges that he has reason to believe that the Garnishee is indebted to Plaintiff/Defendant or has in his possession goods, chattels, moneys, credits, or effects belong to the Plaintiff/Defendant.
2. The Garnishee is directed to prepare a written answer, UNDER OATH, and to file this answer in the Greenwood Division of the District Clerk's office within twenty (30) days from the date on which he is served with this Writ. The written answers should contain a statement of what goods, chattels, moneys, credits, or effect the Garnishee may have in his possession belonging to the Plaintiff/Defendant to satisfy this Judgment. Unless the Garnishee files such a written answer within twenty (30) days. Judgment may be rendered against him for the stated amount, together with Court costs of this action, plus fee for service.
3. In addition, the Garnishee is required to answer any further interrogatories that may be propounded to him.
4. There are Federal restrictions on the amount that the Garnishee may withhold from an employee's pay. Please consult Wage-Hour Publication No. 1279, obtainable from the United States Department of Labor, Wage and Hour Division.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court this day: _____

CHERI MITCH, DISTRICT CLERK

BY: _____ D.C.

EXPLANATION

Balance of Judgment: _____

Accrued Court Costs

& Cost of Writ: _____

Fee for Service: _____

Date of Judgment: _____

Other: _____

TOTAL: _____

ALLEGATIONS AND INTERROGATORIES

Comes the Plaintiff/Defendant in the above styled cause and alleges:

1. That the garnishee herein was, on and after the service of the writ of garnishment upon it, indebted to the plaintiff/defendant in the sum of \$_____ plus costs.
2. That said garnishee herein has, on and after the service of writ of garnishment upon it, goods and chattels, monies, credits and effects belonging to said plaintiff/defendant of the value aforesaid, in his hands and possession.

And the plaintiff/defendant propounds to said garnishee the following interrogatories:

1. Were you on and after the service of writ of garnishment herein handed you, indebted to the plaintiff/defendant? If so, how and in what amount?
2. Have you in your hands and/or possession, on or after the service of the writ of garnishment upon you herein, any goods, chattels, monies, credits or effects belonging to the said plaintiff/defendant? If so, what was the nature and value thereof?

By _____
Plaintiff/Defendant's Signature

NOTICE OF DEBTOR OF YOUR RIGHT TO KEEP WAGES, MONEY AND OTHER PROPERTY FROM BEING GARNISHED

The Writ of Garnishment or Writ of Execution delivered to you with this Notice means that wages, money or other property belonging to you has been garnished in order to pay a court judgment against you. **HOWEVER, YOU MAY BE ABLE TO KEEP YOUR MONEY OR PROPERTY FROM BEING TAKEN, SO READ THIS NOTICE CAREFULLY.**

State and federal laws say that certain money and property may not be taken to pay certain types of court judgments. Such money or property is said to be "exempt" from garnishment.

For example under the Arkansas Constitution and State law, you will be able to claim AS EXEMPT all or part of your wages or other personal property. As another example, under federal law the following are also exempt from garnishment: Social Security, SSI, Veteran's Benefits, AFDC (welfare), unemployment compensation, worker's compensation.

You have a right to ask for a court hearing to claim these or exemptions. You must notify the District Court Clerk of the Greenwood Division at P.O. Box 925, Greenwood, AR 72936, and a hearing will be set within eight (8) working days. If you need legal assistance to help you try to save your wages or property from being garnished you should see a lawyer. If you can't afford a private lawyer, contact your local bar association.

CERTIFICATION OF SERVICE: I, _____, have this day mailed a copy of this writ and notice to the Plaintiff/Defendant at his residence address by First Class mail.

DATE: _____

Plaintiff/Defendant Signature

On this _____ day of _____, 20____, at _____ o'clock ____m., I have duly served this Writ on the garnishee by delivering a true copy thereof to: _____ in said County, as herein commanded.

By: _____
OFFICER/PROCESS SERVER

Subscribed and sworn to before me this _____ day of _____, 20____.
(To be completed if service by other than sheriff or constable)

My Commission Expires:

Notary Public

GARNISHMENT EXHIBIT “A”

NOTICE TO EMPLOYER

Title III, Consumer Credit Protection Act (15 USC §1671 et.seq.; 29 CFR 870)

Basic Provisions/ Requirements

Garnishment is legal procedure through which the earnings of an individual are required by court order to be withheld by an employer for the payment of a debt. Title III prohibits and employer from discharging an employee whose earnings have been subject to garnishment for any one debit, regardless of the number of levies made or proceedings brought to collect it. It does not, however, protect an employee from discharge if the employee's earnings have been subject to garnishment for a second or subsequent debt.

Title III also protects employees by limiting the amount of their earnings that may be garnished in any workweek or pay period to the lesser of 25 percent of disposable earnings or the amount by which disposable earnings are greater than 30 times the federal minimum hourly wage prescribed by action 6(a)(1) of the Fair Labor Standards Act of 1938. This limit applies regardless of the number of garnishment orders received by an employer. The current federal minimum wage is \$7.25 per hour which became effective July 24, 2009.

In the court orders for child support or alimony, Title III allows up to 50 percent of an employee's disposable earnings to be garnished if the employee is supporting a spouse or child, and up to 60 percent for an employee who is not. An additional 5 percent may be garnished for support payments which are more than 12 weeks in arrears. Such garnishments are not subject to restrictions noted in the preceding paragraph.

“Disposable earnings” is the amount of employee earnings left after legally required deductions have been made for federal, state and local taxes, Social Security, unemployment insurance and state employee retirement systems. Other deductions which are not required by law, e.g. union dues, health and life insurance, and charitable contribution, are not subtracted from gross earnings when calculating the amount of disposable earnings for garnishment purposes.

Title III specifies that garnishment restrictions do not apply to bankruptcy court orders and debts due for federal and state taxes. Nor does it affect voluntary wage assignments, i.e., situations in which workers voluntarily agree that their employers may turn over some specified amount of their earnings to a creditor or creditors.

MAXIMUM GARNISHMENT OF DISPOSABLE EARNINGS

NONSUPPORT PAYMENTS*

EFFECTIVE JULY 24, 2009 (\$7.25 PER HOUR)

WEEKLY	BI-WEEKLY	SEMIMONTHLY	MONTHLY
\$217.50 or less: None	\$435.00 or less: None	\$471.25 or less: None	\$942.50 or less: None
More than \$217.50 But less than \$290.00: Amount above \$217.50	More than \$435.00 But less than \$580.00 Amount above \$435.00	More than \$471.25 But less than \$628.33 Amount above \$471.25	More than \$942.50 But less than \$1256.66 Amount above \$942.50
\$290.00 or more Maximum 25%	\$580.00 or more: Maximum 25%	\$628.33 or more: Maximum 25%	\$1256.66 or more: Maximum 25%

These restrictions do NOT apply to garnishments for child support, alimony, bankruptcy or to recover State or Federal taxes.

NOTICE TO THE GARNISHEE

1. A judgment has been obtained in the **DISTRICT COURT OF SEBASTIAN COUNTY, GREENWOOD DIVISION**, against the judgment Debtor listed in the writ and remains unsatisfied. The plaintiff believes that you are indebted to the Defendant, or have in your possession goods, chattels, moneys, credits, or effects belonging to the Defendant.
2. You are directed to prepare a written answer, under oath, and to file this answer in the **DISTRICT COURT OF SEBASTIAN COUNTY, GREENWOOD DIVISION**, Clerk's Office within twenty (30) days from the date in which you are served with this writ. The written answer should contain a statement of what goods, chattels, moneys, credits, or affects you may have in your possession belonging to the Defendant.
3. In addition, you are required to answer any further interrogatories that may be asked of you.
4. Do not pay any money to the Clerk. You should hold the money until a court order directs you to release the money. You will then pay it to the plaintiff's attorney or agent.

NOTICE TO NON-EMPLOYER GARNISHEE

Failure to answer this writ within twenty (30) days or failure or refusal to answer the interrogatories attached hereto shall result in the court entering a judgment against you and you becoming personally liable for the full amount specified in this Writ together with costs of this action as provided by Arkansas Code Annotated 16-110-407.

NOTICE TO EMPLOYER GARNISHEE

Failure to answer this Writ within twenty (30) days or failure or refusal to answer the interrogatories attached hereto shall result in the court rendering a Judgment against you and you becoming personally liable for the amount of the non-exempt wages owed the debtor-employee on the date you were served this writ as provided by Arkansas Code Annotated 16-110-407.

The judgment or balance due therein is a lien on salaries, wages, or other compensation due at the time of the service of the garnishment and shall continue as to subsequent earnings until the total amount due upon the judgment and costs are paid or satisfied.

The lien on subsequent earnings shall end if the employment relationship is terminated or if the underlying judgment is vacated or modified.

Employer Garnishees are notified that the amount of wages available for withholding for this judgment and costs is subject to certain prior claims. Under Arkansas law income withholding for child support has a priority over all other legal processes. Under Federal law the total amount to be withheld cannot exceed the maximum amount allowed under Section 203(b) of the Title III Consumer Credit Protection Act.

NOTICE TO THE DEFENDANT

The Writ of Garnishment delivered to you with this Notice means that wages, money or other property belonging to you has been garnished in order to pay a court judgment against you. **HOWEVER, YOU MAY BE ABLE TO KEEP YOUR MONEY OR PROPERTY FROM BEING TAKEN, SO READ THIS NOTICE CAREFULLY.**

GARNISHMENT EXHIBIT “B”

NOTICE TO DEFENDANT/DEBTOR

YOUR RIGHT TO KEEP WAGES, MONEY AND OTHER PROPERTY FROM BEING GARNISHED

The Writ of Garnishment delivered to you with this Notice means that wages, money or other property belonging to you has been garnished in order to pay a Court Judgment against you. **HOWEVER, YOU MAY BE ABLE TO KEEP YOUR MONEY OR PROPERTY FROM BEING TAKEN, SO READ THIS NOTICE CAREFULLY.**

State and Federal laws say that certain money and property may not be taken to pay certain types of Court Judgments. Such money or property is said to be “exempt” from garnishment.

For example, under the Arkansas Constitution and State law, you will be able to claim as exempt all, or part of your wages or other personal property. See Ark. Const. Art. 9 and Ark. Stat. Ann. Section 30-207, et.seq.

As another example, under Federal law the following are also exempt from garnishment:

Social Security, SSI, Veteran’s benefits, AFDC(Welfare), Worker’s Compensation

You have a right to ask for a prompt court hearing to claim these or other exemptions. If you need legal assistance to help you try to save your wages or property from being garnished, you should see a lawyer. If you can’t afford a private lawyer, contact your local Bar Association or Legal Aid Office, 100 North 6th Street, Fort Smith, Arkansas, 72901 (479-785-5211)